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JOHN T. SCOTT, III (202) 624-2582

July 14, 1998

Ms. Magalie Roman Salas Secretary Federal Communications Commission 1919 M Street, N.W., Room 222 Washington, D.C. 20554

EX PARTE OR LATE FILED

Re: Ex Parte Notice: CC Docket No. 96-115: CPNI

Dear Ms. Salas:

The enclosed written ex parte presentation was sent on July 14, 1998, to Chairman Kennard and the other Commissioners. It concerns the application to commercial mobile radio services of the Commission's new rules restricting the use of customer proprietary network information. Two copies of the presentation are enclosed and should be entered in the record of this proceeding.

Should there be any questions regarding this matter, please contact this office.

Very truly yours,

John T. Scott, III

cc: Rosalind Allen
Jeanine Poltronieri
Steven Weingarten
Brent Olson
Lisa Choi
Janice Jamison

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John T. Scott . The

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Bell Atlantic Mobile, Inc. 180 Washington Valley Road Bedminster, NJ 07921 908 306-7390 FAX 908 306-7329 S. Mark Tuller
Vice President - Legal and External Affairs
General Counsel and Secretary

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Federal Communications Commission
Office of Secretary

July 13, 1998

Chairman William E. Kennard Federal Communications Commission 1919 M Street, Room 814 Washington, D.C. 20554

Re: CC Docket No. 96-115: CPNI

#### Dear Chairman Kennard:

The pleading cycle on CPNI is closed, and it is time for the FCC to act quickly to repeal or forbear from two of the CPNI rules as they apply to CMRS.

The uncontradicted record shows that the rules will not serve the privacy goals of Section 222 of the Act, but instead will harm CMRS competition, interfere with subscribers' ability to obtain CMRS products and services at the lowest prices, and violate many of the Commission's own policies to promote CMRS.

There is no contrary evidence.

CTIA and many other parties sought reconsideration or forbearance from these rules, which restrict CMRS carriers from using CPNI to market wireless-related CPE and information services such as voice mail, and to seek to win back former customers. 47 CFR §§ 64.2005(b)(1) and (3). Those petitions are unopposed. Every party commenting on them supports removal of the two rules as they apply to CMRS. Not a single party advocates retaining them. Non-CMRS carriers as well advocate deleting these rules as to CMRS. MCI, for example, agrees that using CPNI to engage in the sale of CMRS equipment and information services and in CMRS win back efforts is pro-competitive and should not be restricted.

Enclosed are Bell Atlantic Mobile's comments supporting forbearance from these sections for CMRS, which make the case for forbearance with both legal analysis and competent evidence. Through the declaration of an economist with extensive experience in evaluating the CMRS market and other evidence, we demonstrate that each forbearance prong is met. We

Chairman William E. Kennard July 13, 1998 Page 2

strongly believe that the rules, far from protecting customer privacy, disserve the public and harm competition, and thus undermine the goals of Section 222. No party disagrees.

In many proceedings the Commission must decide among conflicting legal and policy arguments. This is not the case here. Given the overwhelming record that the two rules as applied to CMRS achieve no benefits, but instead undermine the Commission's objectives for CMRS, the Commission should act immediately.

Sincerely,

S. Mark Tuller

Enclosure:

Comments of Bell Atlantic Mobile, Inc. Supporting Petitions for Forbearance

cc with enclosure:

Commissioner Harold Furchtgott-Roth

Commissioner Susan Ness

Commissioner Michael K. Powell Commissioner Gloria Tristani